IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVILI APPELLATE JURISDICTION.

WRIT PETITION NO.8861 OF 2004

Shri Tulsiram Tukaram Patil, Petitioner

Vs

Shri Yeshwant Chandu Choudhary & ors Respondents

Mr.Anilkumar Patil, for the petitioner.

Mr A.H.Palekar, AGP, for R.Nos 9 and 11.

Mr A.B.Borkar with Mr R.D.Suryawanshi, for R.Nos.1 to 6

CORAM : D.B.BHOSALE,J.

DATE : 25th November, 2004.

PC:

1. Heard the learned counsel for the parties.

2. By this petition, the petitioner has impugned the order dated 11.10.2004 passed by the Additional Commissioner, Konkan Division, Mumbai, by which the appeal filed by the petitioner under section 35 (3B) of the Bombay Village Panchayat Act, 1958, has been dismissed. In the appeal, the petitioner had challenged the order passed by the Collector dated 10.8.2004 rejecting his application seeking to challenge the resolution passed by the Gram Panchayat in its special meeting held on 25 6.2004 expressing no confidence against the petitioner who was holding the post of Sarpanch at the relevant time.

2. Mr.Patil, learned counsel for the petitioner, contended that along with the intimation of the meeting that was called for considering the motion of no confidence on the petitioner, the notice expressing no confidence against him dated 22.6.2004 given by six members of the Gram Panchayat, was not served on the petitioner and, therefore, he was not aware of the grounds on which the members desired to pass no confidence motion against him.

3. I perused the concurrent findings recorded by the authorities below and also other documents produced before me for my consideration. It appears that since the petitioner was avoiding the service of notice, it was served on him by pasting on his house. Though the petitioner states that the intimation of the meeting alone was received by him on 24.6.2004, according to the respondents, all the annextures including the notice dated 22.6.2004 in the prescribed form of notice of no confidence motion under the Bomay Village Panchayat Sarpanch and Upsarpanch (No Confidence Motion) Rules, 1975, were also served by pasting. Moreover, it is not disputed that on 24.6.2004 an additional copy of notice dated 22.6.2004 was served on the petitioner of the meeting held on 25.6.2004. The proceedings of the

meeting further show that the petitioner participated in the meeting and there was a discussion on every ground on which six members of the Gram Panchayat had given notice expressing no confidence on him. The resolution of no confidence was passed by a vote of 6-2. It is against this back drop, the submissions of Mr. Patil, learned counsel for the petitioner that the grounds of no confidence were not served on the petitioner and that he was not aware about the grounds on the date of the meeting must be rejected. In view of the peculiar facts and circumstances of the case, the judgment of this Court in Nimba Rajaram Mali Vs. Collector, Jalgaon and ors, 1998 (3) Mh.L.J.204 relied upon by the petitioner is of no avail to the petitioner. Considering that there are concurrent findings recorded by the Courts below and as I find that there is sufficient material/evidence on record to sustain those findings and considering the extremely limited jurisdiction of this Court under Article 227 of the Constitution of India to disturb the findings of fact, the present petition cannot be entertained. It is dismissed as such.

(D.B.qBHOSALE, J.)